



7020-02

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1127]

### **Certain Microperforated Packaging Containing Fresh Produce (II); Commission Determination Not to Review an Initial Determination Granting a Motion to Terminate the Investigation With Respect to Respondent Growers Express, LLC.; Termination of the Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 7) of the presiding administrative law judge (“ALJ”), granting complainant’s motion to terminate the investigation as to respondent Growers Express, LLC (“Growers Express”) based on a settlement and license agreement. The investigation is terminated in its entirety.

**FOR FURTHER INFORMATION CONTACT:** Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2392. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on August 16, 2018, based on a complaint filed on behalf of Windham Packaging, LLC (“Windham”) of Windham, New Hampshire. 83 FR 40787 (Aug. 16, 2018). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain microperforated packaging containing fresh produce by reason of infringement of certain claims of U.S. Patent No. 7,083,837. *Id.* The complaint further alleges that a domestic industry exists. *Id.* The Commission’s notice of investigation named as respondents C.H. Robinson Worldwide, Inc. (“C.H. Robinson”) of Eden Prairie, Minnesota and Growers Express of Salinas, California. *Id.* at 40788.

Respondent C.H. Robinson has been terminated from the investigation based on Windham’s withdrawal of the allegations of the complaint pursuant to Commission Rule 210.21(a) (19 CFR § 210.21(a)). *See* Order No. 6 at 1 (Feb. 25, 2019), Comm’n Notice (Mar. 11, 2019).

On February 19, 2019, Windham filed an unopposed motion to terminate the investigation as to Growers Express based on a settlement and license agreement between Windham and Growers Express.

On March 14, 2019, the ALJ issued the subject ID granting the motion pursuant to Commission Rule 210.21(b)(1) (19 CFR 210.21(b)(1)). Order No. 7 at 2 (Mar. 14, 2019). The ALJ found that the motion complies with the Commission’s rules, and there is no evidence that terminating this investigation as to Growers Express based on a settlement and license agreement

would be contrary to the public interest. *Id.* at 1-2. The subject ID indicates that Growers Express is the last remaining respondent. *Id.* at 2 n.1. No petitions for review were filed.

The Commission has determined not to review the subject ID. The investigation is terminated in its entirety.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: April 8, 2019.

Lisa Barton,  
Secretary to the Commission.

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